

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: EXCHANGE OF TRANSIT TRAFFIC	DOCKET NOS. SPU-00-7 TF-00-275 (DRU-00-2)
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**ORDER WAIVING RULES AND ESTABLISHING
DEADLINE FOR FILING RESPONSES**

(Issued December 21, 2001)

On May 19, 2000, Qwest Corporation (Qwest) filed a petition with the Utilities Board (Board) for a declaratory order regarding the exchange of local traffic by wireless and other local calling entities using Qwest's facilities. Qwest's petition was identified as Docket No. DRU-00-2. However, due to the complexity and number of issues presented by the petition, the Board subsequently docketed the petition as a contested case proceeding, identified as Docket No. SPU-00-7.

On November 27, 2001, the presiding officer in this docket issued a proposed decision and order. Five notices of appeal were filed with the Board on December 12, 2001, pursuant to Iowa Code § 17A.15(3) (2001) and 199 IAC 7.8(2) (2001). Under the Board's rules, the parties to this proceeding would normally have 14 days from December 12, 2001, to respond to the notice of appeal (see rule 7.8(2)"c") and the Board would then have to rule on the issues to be decided on appeal within 20 days of December 12, 2001. Under that schedule, the parties'

responses would be due December 26, 2001, and the Board's order would have to issue on or before January 2, 2002 (due to the state holiday on January 1, 2002). The parties have informally requested an extension of these deadlines.

The Board finds that this schedule does not allow sufficient time in this case, which involves a relatively large number of parties and unusually complex issues. In addition, the schedule that would be established by the Board's rules includes two state holidays, further reducing the working time available to the parties and the Board. Accordingly, the Board will waive its rules 7.8(2)"c" and "d" and establish a more reasonable procedural schedule for this appeal.

Rule 1.3 sets out the standards the Board applies in determining whether to waive a rule. Applying those standards to this case, the Board finds that application of the deadlines in the rules would work an undue hardship on the parties by allowing insufficient time for preparation of responses to all of the notices of appeal. Waiving the rules will not prejudice the substantial legal rights of any person, and the provisions of rules 7.8(2)"c" and "d" are not mandated by any statute or other provision of law. Finally, the Board finds that the revised schedule will afford substantially equal protection of the public health, safety, and welfare.

Having waived the rules, the Board will require that all responses to the notices of appeal must be filed on or before January 11, 2002. The Board will issue its order regarding the issues to be addressed on appeal within a reasonable time thereafter.

IT IS THEREFORE ORDERED:

1. The Board hereby waives the time requirements of 199 IAC 7.8(2)"c" and 7.8(2)"d" for the reasons stated in the body of this order.
2. Responses to the notices of appeal filed in this docket on December 12, 2001, must be filed on or before January 11, 2002.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 21st day of December, 2001.